

WATER RIGHTS ADJUDICATION AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill modifies the procedure for adjudicating water rights.

Highlighted Provisions:

This bill:

- ▶ requires the state engineer to identify all possible claimants in a particular area during an adjudication, if the state engineer's records are incomplete;
- ▶ modifies the procedure following the commencement of an action by the state engineer;
- ▶ states that the failure of a potential party to file a timely statement of claim constitutes a default against that party;
- ▶ requires the state engineer to authorize one extension to those seeking to file a statement of claim;
- ▶ requires the state engineer, after a full consideration of claims and an examination of the river system or water source involved, to:
 - complete a hydrographic survey map;
 - prepare a proposed determination of all rights to the use of the water and file it with the district court;
 - serve notice by publication and by mail; and
 - hold a public meeting; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

73-4-1, as last amended by Laws of Utah 2013, Chapter 258

33 **73-4-3**, as last amended by Laws of Utah 2013, Chapter 258
34 **73-4-4**, as last amended by Laws of Utah 2013, Chapter 258
35 **73-4-5**, as last amended by Laws of Utah 2013, Chapter 258
36 **73-4-9**, as last amended by Laws of Utah 2013, Chapter 258
37 **73-4-10**, Utah Code Annotated 1953
38 **73-4-11**, as last amended by Laws of Utah 2013, Chapter 258
39 **73-4-12**, Utah Code Annotated 1953
40 **73-4-14**, Utah Code Annotated 1953
41 **73-4-15**, Utah Code Annotated 1953
42 **73-4-16**, Utah Code Annotated 1953
43 **73-4-21**, Utah Code Annotated 1953
44 **73-4-22**, as last amended by Laws of Utah 2013, Chapter 258
45 **73-4-24**, as repealed and reenacted by Laws of Utah 2010, Chapter 320

46 ENACTS:

47 **73-4-9.5**, Utah Code Annotated 1953

48 REPEALS:

49 **73-4-6**, Utah Code Annotated 1953
50 **73-4-7**, Utah Code Annotated 1953
51 **73-4-8**, Utah Code Annotated 1953

53 *Be it enacted by the Legislature of the state of Utah:*

54 Section 1. Section **73-4-1** is amended to read:

55 **73-4-1. Action for a general adjudication of water rights -- Requirements for**
56 **state engineer to file -- Adjudication area divisions.**

57 (1) (a) Five or more, or a majority of, water users of a water source may submit a
58 signed, verified petition to the state engineer requesting an investigation of the rights of all
59 claimants to the water of the water source.

60 (b) Upon receipt of a petition described in Subsection (1)(a), the state engineer shall:

61 (i) investigate whether the facts and circumstances of the water source and its
62 claimants justify a general determination of water rights; and

63 (ii) if justified, file an action in the district court for a general adjudication of water

64 rights.

65 (c) In any suit involving water rights the court may order an investigation [~~and survey~~]
66 by the state engineer of all the water rights on the source or system involved, as provided in
67 this chapter.

68 (2) (a) The executive director of the Department of Environmental Quality, with the
69 concurrence of the governor, may request that the state engineer file in the district court an
70 action to determine the various water rights in the stream, water source, or basin for an area
71 within the exterior boundaries of the state for which any person or organization or the federal
72 government is actively pursuing or processing a license application for a storage facility or
73 transfer facility for high-level nuclear waste or greater than class C radioactive waste.

74 (b) Upon receipt of a request made under Subsection (2)(a), the state engineer shall file
75 an action in the district court for a general adjudication of water rights.

76 (c) If a general adjudication is filed in the state district court regarding the area
77 requested pursuant to Subsection (2)(a), the state engineer and the state attorney general shall
78 join the United States as a party to the action.

79 (3) When an action for a general adjudication of water rights for a certain area is filed
80 in district court, the state engineer may divide the general adjudication area into divisions and
81 subdivisions if the state engineer:

82 (a) fulfills the requirements of this chapter individually for each division or
83 subdivision; and

84 (b) petitions the court to incorporate the decrees for all the divisions and subdivisions
85 within a general adjudication area into a final decree for the entire general adjudication area.

86 Section 2. Section **73-4-3** is amended to read:

87 **73-4-3. Notice and procedure for general adjudication of water rights --**
88 **Statements of claim -- Incomplete records.**

89 (1) Upon the filing of any action by the state engineer as provided in Section 73-4-1, or
90 by any person claiming the right to use the waters of any river system, lake, underground water
91 basin, or other natural source of supply that involves a determination of the rights to the major
92 part of the water of the source of supply or the rights of 10 or more of the claimants of the
93 source of supply, the clerk of the district court shall notify the state engineer that a suit has
94 been filed.

(2) (a) The state engineer then shall, for each general adjudication area, division, or subdivision, give notice of commencement of action to the claimants by publishing notice:

(i) once a week for two consecutive weeks in a newspaper designated by the court as most likely to give notice to such claimants; and

(ii) in accordance with Section 45-1-101 for two weeks.

(b) The notice of commencement of action shall state:

(i) an action has been filed;

(ii) the name of the action;

(iii) the name and location of the court in which the action is pending; and

(iv) the name or description of the water source involved.

(c) The state engineer shall file proof of the publication of notice of commencement of action with the district court.

(3) The state engineer shall, for each general adjudication area, division, or subdivision, search the records of the state engineer's office to ~~[locate]~~ identify all possible claimants, and continue to update the records during the adjudication and search for additional claimants.

(4) In accordance with Section 73-4-4, the state engineer shall serve a summons to each claimant of record in the state engineer's office within a general adjudication area, division, or subdivision.

(5) (a) After serving summons to a claimant, the state engineer shall give notice of further proceedings to:

(i) the claimant; and

(ii) an attorney who enters an appearance in court for the claimant.

(b) A court order is not required as a prerequisite for giving notice under Subsection (5)(a).

(c) The state engineer shall give the notice described in Subsection (5)(a):

(i) electronically, if the state engineer can verify the claimant's receipt;

(ii) by mail;

(iii) by personal service; or

(iv) if the notice is for the benefit of the claimants generally, by publishing the notice.

(d) Notice given by mail is complete when the notice is mailed.

(6) Except as provided in Subsection (8)(d)(ii), if the state engineer serves a notice required by this chapter, the state engineer shall, before the day on which the final decree for the general adjudication area, division, or subdivision is filed, file with the ~~clerk of the~~ district court a certificate of service that contains the name and address of the claimant served with the notice.

(7) After publishing notice of commencement of an action, the state engineer shall~~[:]~~ ~~[(a) begin the survey of the water source and the ditches, canals, wells, tunnels, or other works diverting water from the water source; and (b)]~~ hold a public meeting in the ~~[survey area]~~ general adjudication area, division, or subdivision to inform a water right claimant of the ~~[survey]~~ general adjudication process.

(8) (a) After the ~~[survey]~~ public meeting described in Subsection (7) ~~[is complete for a claimant]~~, the state engineer shall give notice to each claimant, in accordance with Subsection (5), of ~~[completion of survey to the claimant]~~ the time for filing statements of claim.

(b) ~~[Notice of completion of survey]~~ The notice described in Subsection (8)(a) shall include:

(i) a statement that:

~~[(A) the state engineer has investigated the claimant's water right; and (B)]~~

(A) a claimant who desires to claim a water right in the action shall, in accordance with Section 73-4-5, submit a written or electronic statement of claim within 90 days after the day on which the notice is issued; and

(B) failure to file a timely statement of claim, as described in Section 73-4-5, constitutes a default and a judgment may be entered declaring that the claimant has no right to the use of water not claimed; and

(ii) instructions describing how to obtain or access a statement of claim form that the claimant must complete in order to comply with the provisions of Section 73-4-5.

(c) A claimant served with ~~[a notice of completion of survey]~~ the notice described in Subsection (8)(a) who desires to claim a water right in the action shall file a written or electronic statement of claim in accordance with Section 73-4-5.

(d) (i) The state engineer shall compile the statements of claim described in Subsection (8)(c), together with any extensions of time granted by the state engineer as provided by Section 73-4-10, and file them with the ~~clerk of the~~ district court contemporaneously with the

157 list of unclaimed rights of record, as described in Section 73-4-9.5.

158 (ii) If the state engineer files a claimant's statement of claim with the district court in
159 accordance with Subsection (8)(d)(i), the state engineer is not required to file a certificate of
160 service that relates to the notice ~~[of completion of survey]~~ described in Subsection (8)(a) for
161 that claimant.

162 ~~[(9) When a suit has been filed by the state engineer as provided by Section 73-4-1, or~~
163 ~~by any person involving the major part of the waters of any river system, lake, underground~~
164 ~~water basin, or other source of supply, or the rights of 10 or more of the water claimants of the~~
165 ~~source of supply, whether the suit is filed prior to or after the enactment hereof, the state~~
166 ~~engineer, upon receiving notice,]~~

167 (9) The state engineer shall examine the records of the state engineer's office with
168 respect to the water source involved, and if ~~[they]~~ the records are incomplete ~~[to make such]~~,
169 make further investigation ~~[and survey]~~ as may be necessary ~~[for the preparation of the report~~
170 ~~and recommendation as required by Section 73-4-11]~~ to identify potential claimants as required
171 by this section.

172 (10) In all such cases the court shall proceed to determine the water rights involved in
173 the manner provided by this chapter, and not otherwise.

174 Section 3. Section **73-4-4** is amended to read:

175 **73-4-4. Summons for general adjudication of water rights -- Requirements to**
176 **serve summons individually and generally -- Statement of claim requirement.**

177 (1) (a) The state engineer shall, by mail, serve a summons to a claimant of record in the
178 state engineer's office within a general adjudication area, division, or subdivision.

179 (b) (i) The state engineer may serve, by publication, a general summons to claimants in
180 a general adjudication area, division, or subdivision, who are not of record in the state
181 engineer's office, if the state engineer files an affidavit with the district court, verifying that the
182 state engineer has, in accordance with Section 73-4-3, searched the records of the state
183 engineer's office for claimants in the general adjudication area, division, or subdivision.

184 (ii) The state engineer shall publish, in accordance with the Utah Rules of Civil
185 Procedure, a general summons described in Subsection (1)(b)(i):

186 (A) once a week for five successive weeks in one or more newspapers, determined by
187 the judge of the district court as most likely to give notice to the claimants served; and

(B) for five weeks, in accordance with Section 45-1-101.

(iii) Service of a general summons is completed upon the last required date of publication.

(c) The summons shall be substantially in the following form:

"In the District Court of County, State of Utah, in the matter of the general adjudication of water rights in the described water source.

SUMMONS

The State of Utah to the said defendant:

You are hereby summoned to appear and defend the above entitled action which is brought for the purpose of making a general determination of the water rights of the described water source. Upon the service of this summons upon you, you will thereafter be subject to the jurisdiction of the entitled court and it shall be your duty to follow further proceedings in the above entitled action and to protect your rights therein. ~~[When the state engineer has completed the survey you will be given a further written notice, either in person or by mail,]~~ The state engineer will give a further notice sent to your last-known address, that you must file a ~~[water users]~~ statement of claim in this action setting forth the nature of your claim, and said notice will specify the date upon which your ~~[water users]~~ statement of claim is due and thereafter you must file said claim within the time set and your failure so to do will constitute a default in the premises and a judgment may be entered against you declaring ~~[and adjudging]~~ that you have no right ~~[in or to the waters of described water source]~~ to the use of water not claimed."

(2) If the state engineer is required, under this section, to serve a summons on the United States, the state engineer shall serve the summons in accordance with federal law.

Section 4. Section **73-4-5** is amended to read:

73-4-5. Requirements for statement of claim in general adjudication of water rights.

~~[Each]~~ (1) Except as provided in Subsection (2), each person claiming a right to use water of a river system or water source shall, within 90 days after the day on which notice of ~~[completion of survey]~~ the time to file statements of claim as described in Section 73-4-3 is served, file with the state engineer or the ~~[clerk of the]~~ district court a written or electronic statement of claim, signed, and verified under oath, by the claimant, or by unsworn declaration

219 as described in Section 78B-5-705, that includes:

220 ~~[(1)]~~ (a) the name and address of the claimant;

221 ~~[(2)]~~ (b) the nature and measure of beneficial use on which the claim ~~[of appropriation]~~

222 is based;

223 ~~[(3)]~~ (c) the maximum flow of water used in cubic feet per second, the maximum

224 volume of water used in acre-feet, or the quantity of water stored in acre-feet, ~~[and the time~~

225 ~~during which the flow or stored water has been used each year;]~~ as applicable;

226 (d) the period of time during which the water is used each year;

227 (e) the period of time during which the water is stored each year, if applicable;

228 ~~[(4)]~~ (f) the name of the stream or other source from which the water is diverted, the

229 point on the stream or source where the water is diverted, and a description of the nature of the

230 diverting works;

231 ~~[(5) the date when the first work for diverting the water began, and a description of the~~

232 ~~nature of the work;]~~

233 (g) the water right number associated with the claimed right or, if not of record in the

234 state engineer's office, evidence sufficient to enable the state engineer to evaluate the basis of

235 the claimed right, including the information listed in Subsections 73-5-13(2)(a) and (c);

236 ~~[(6)]~~ (h) the claimed priority date ~~[when the water was first used, the flow in cubic feet~~

237 ~~per second, or the quantity of water stored in acre-feet, and the time the water was used during~~

238 ~~the first year;]~~

239 ~~[(7)]~~ (i) the place and manner of current use; and

240 ~~[(8)]~~ (j) other facts that clearly define the extent, limits, and nature of the

241 ~~[appropriation claimed]~~ claim, or that are required by the written or electronic form provided

242 by the state engineer with the notice of ~~[completion of survey]~~ the time to file statements of

243 claim.

244 (2) A person claiming a right to the use of water, as described in Subsection (1):

245 (a) may request an extension of time as described in Section 73-4-10; and

246 (b) shall file the statement described in Subsection (1) on or before the granted

247 extension date, if an extension is granted pursuant to Section 73-4-10.

248 Section 5. Section **73-4-9** is amended to read:

249 **73-4-9. Failure to file a statement of claim.**

(1) The filing of each statement [by a claimant] of claim shall be considered notice to all persons of the claim of the party making the same, and [any person] failing to make and deliver such statement of claim to the state engineer or the [clerk of the] district court within the time prescribed by [law shall be forever barred and estopped from subsequently asserting any rights, and shall be held to have forfeited all rights to the use of the water theretofore claimed by him; provided, that any claimant, upon whom no other service of said notice shall have been made than by publication in a newspaper and as required in Section 45-1-101, may apply to the court for permission to file a statement of claim after the time therefor has expired, and the court may extend the time for filing such statement, not exceeding six months from the publication of said notice; but, before said time is extended, the applicant shall give notice by publication in a newspaper having general circulation and as required in Section 45-1-101 on such river system or near the water source to all other persons interested in the water of such river system or water source, and shall make it appear to the satisfaction of the court that during the pendency of the proceedings he had no actual notice thereof in time to appear and file a statement and make proof of his claim; and all parties interested may be heard as to the matter of his actual notice of the pendency of such proceedings.] Section 73-4-5, or as extended pursuant to Section 73-4-10, shall be considered evidence of an intent to abandon the right.

(2) If a claimant fails to timely file a statement of claim, as provided in this chapter, for a right not of record in the state engineer's office, the claimant is forever barred and estopped from subsequently asserting the unclaimed right.

Section 6. Section **73-4-9.5** is enacted to read:

73-4-9.5. List of unclaimed rights of record.

(1) After the last day on which a claimant may file a statement of claim in accordance with Section 73-4-5, the state engineer shall:

(a) file with the court a list of unclaimed rights of record listing each water right of record in the state engineer's office for which a statement of claim was not timely filed, that includes:

(i) the water right number;

(ii) the point of diversion; and

(iii) the owner of the water right as recognized in the state engineer's records;

(b) serve notice of the list of unclaimed rights of record on all identified potential

claimants that were served with a summons, in the same manner as provided in Subsection 73-4-11(1)(c); and

(c) hold a public meeting in the area covered by the division or subdivision to explain the list of unclaimed rights of record.

(2) A claimant who desires to object to the state engineer's list of unclaimed rights of record shall, within 90 days of the day on which the state engineer served the potential claimant notice of the list of unclaimed rights of record, file:

(a) a written objection to the list of unclaimed rights of record with the district court; and

(b) a statement of claim, as provided in this chapter, with the district court and the state engineer.

(3) The state engineer shall evaluate and make a recommendation in the proposed determination for a water right placed on the list of unclaimed rights of record if:

(a) the claimant files a timely objection to the list of unclaimed rights in accordance with Subsection (2); and

(b) the court determines that a claimant's failure to file a timely statement of claim is excused by:

(i) circumstances beyond the claimant's control;

(ii) mistake; or

(iii) any other reason justifying relief.

(4) If a claimant fails to file a timely statement of claim, as provided in this chapter, for a right of record in the state engineer's office and the failure to file a timely claim is not excused by the court as provided in Subsection (3), the claimant is forever barred and estopped from asserting the right to the use of water included in the list and the right shall be considered abandoned.

(5) After resolving all objections to the list of unclaimed rights of record, the court shall render a judgment for the list of unclaimed rights of record that:

(a) identifies any water rights on the list of unclaimed rights that are not abandoned because the court excuses the failure to file a statement of claim as provided in Subsection (3);

(b) adjudges the unclaimed rights abandoned; and

(c) may prohibit future claims from being filed for rights not of record in the state

engineer's office, under this chapter and Section 73-5-13, in the general adjudication area, division, or subdivision.

Section 7. Section **73-4-10** is amended to read:

73-4-10. Amendment of pleadings -- Extensions of time.

(1) The court shall have power to allow amendments to any petition, statement of claim, or pleading[, to extend as provided in this title the time for filing any statement of ~~claim;~~] and to extend, upon due cause shown, the time for filing any other pleading, statement of claim, report, or [~~protest~~] objection.

(2) If the claimant files a written request for an extension of time to file a statement of claim within the 90-day period to file a statement of claim, the state engineer shall grant one 30-day extension, in writing.

Section 8. Section **73-4-11** is amended to read:

73-4-11. Proposed determination by engineer to court -- Hydrographic survey map -- Notice -- Public meeting.

~~[(1) Within 30 days after the last day on which a claimant may file a statement of claim in accordance with Section 73-4-5, the state engineer shall begin to tabulate the facts contained in the statements filed and to investigate, whenever the state engineer shall consider necessary, the facts set forth in the statements by reference to the surveys already made or by further surveys, and shall as expeditiously as possible report to the court a recommendation of how all rights involved shall be determined;]~~

~~[(2)]~~ (1) After full consideration of the statements of claims, [~~and of the surveys;~~] records, and files, and after [~~a personal~~] an examination of the river system or water source involved, [~~if the examination is considered necessary;~~] the state engineer shall for the general adjudication area, division, or subdivision:

(a) [~~formulate a report and~~] complete a hydrographic survey map;

(b) prepare a proposed determination of all rights to the use of the water [~~of the river system or water source~~] and file it with the district court;

~~[(b)]~~ (c) serve notice of completion of the [~~report and~~] proposed determination by publication and by mail, in accordance with Subsection 73-4-3(5), to each claimant of record in the state engineer's office within the general adjudication area, division, or subdivision, that includes:

(i) (A) a copy of the ~~[report and]~~ proposed determination; or

(B) instructions on how to obtain or access an electronic copy of the ~~[report and]~~ proposed determination; and

(ii) a statement describing the claimant's right to file an objection to the ~~[report and]~~ proposed determination within 90 days after the day on which the notice of completion of the ~~[report and]~~ proposed determination is served; and

~~[(c)]~~ (d) hold a public meeting in the area, division, or subdivision covered by the ~~[report and]~~ proposed determination to ~~[describe the report and]~~ explain the proposed determination to the claimants.

~~[(3)]~~ (2) A claimant who desires to object to the state engineer's ~~[report and]~~ proposed determination shall, within 90 days after the day on which the state engineer served the claimant with notice of completion of the ~~[report and]~~ proposed determination, file a written objection to the ~~[report and]~~ proposed determination with the ~~[clerk of the]~~ district court.

~~[(4)]~~ (3) The state engineer shall distribute the waters from the natural streams or other natural sources:

(a) in accordance with the proposed determination or modification to the proposed determination by court order until a final decree is rendered by the court; or

(b) if the right to the use of the waters has been decreed or adjudicated, in accordance with the decree until the decree is reversed, modified, vacated, or otherwise legally set aside.

Section 9. Section **73-4-12** is amended to read:

73-4-12. Judgment -- In absence of contest.

If no contest on the part of any claimant shall have been filed, the court shall render a judgment in accordance with such proposed determination, which shall:

(1) determine and establish the rights ~~[of the several claimants]~~ to the use of the water of said river system or water source; and ~~[among other things it shall]~~

(2) set forth:

(a) the name ~~[and post-office address]~~ of the person entitled to the use of the water;

(b) the quantity of water in acre-feet or the flow of water in second-feet;

(c) the time during which the water is to be used each year;

(d) the name of the stream or other source from which the water is diverted;

(e) the point on the stream or other source where the water is diverted;

(f) the priority date of the right; and ~~[such]~~

(g) any other matters as will fully and completely define the rights of said claimants to the use of the water.

Section 10. Section **73-4-14** is amended to read:

73-4-14. Pleadings -- Expert assistance for court.

(1) The statements ~~[filed by the claimants]~~ of claim shall stand in the place of pleadings, and issues may be made thereon.

(2) Whenever requested so to do the state engineer shall furnish the court with any information which ~~[he]~~ the state engineer may possess, or copies of any of the records of ~~[his]~~ the state engineer's office which relate to the water of said river system or water source.

(3) The court may appoint referees, masters, engineers, soil specialists, or other persons ~~[as necessity or emergency may require to assist in taking testimony or investigating facts, and in].~~

(4) In all proceedings for the determination of the rights of claimants to the water of a river system or water source, the filed statements of ~~[claimants]~~ claim shall be competent evidence of the facts stated therein unless the same are put in issue.

Section 11. Section **73-4-15** is amended to read:

73-4-15. Judgment after hearing.

Upon the completion of the hearing, after objections filed, the court shall enter judgment ~~[which]~~ that shall determine and establish the rights ~~[of the several claimants]~~ to the use of the water of the river system or water source as provided in Section 73-4-12.

Section 12. Section **73-4-16** is amended to read:

73-4-16. Appeals.

~~[From all final judgments of the district court there shall be a right of appeal to the Supreme Court as in other cases.]~~

(1) There shall be a right of appeal from a final judgment of the district court to the Supreme Court as provided in Section 78A-3-102.

(2) The appeal shall be upon the record made in the district court, and may as in equity cases be on questions of both law and fact. ~~[All proceedings on appeal shall be conducted according to the provisions of the Code of Civil Procedure.]~~

Section 13. Section **73-4-21** is amended to read:

73-4-21. Duty to update address and ownership -- Duty to follow court proceedings -- Additional notice.

(1) After the service of summons in the manner prescribed by Section 73-4-4 [~~hereof~~], it shall be the duty of every person served individually or by publication to [~~thereafter~~]:

(a) record any change in address or water right ownership with the state engineer; and

(b) follow all court proceedings [~~and no~~].

(2) Except as provided in Subsection (3), the state engineer is not required to provide any further or additional notice [~~shall be required~~] except the notice:

(a) that the [~~survey has been completed and the water users~~] statement of claim is due as prescribed by Section 73-4-3[~~, and notice of the~~];

(b) of the list of unclaimed rights of record, as described in Section 73-4-9.5; and

(c) of the proposed determinations as provided by Section 73-4-11.

(3) The district court may[~~, however,~~] require notice of other proceedings to be given when, in the judgment of the court, it [~~deems~~] considers notice necessary.

Section 14. Section **73-4-22** is amended to read:

73-4-22. State engineer's duty to search records for and serve summons on claimants -- Filing of affidavit -- Publication of summons -- Binding on unknown claimants.

(1) The state engineer, throughout the pendency of proceedings, shall serve summons in the manner prescribed by Section 73-4-4 upon all claimants to the use of water in the described source embraced by said action, whenever the names and addresses of said persons come to the attention of the state engineer.

(2) Immediately after the notice of the proposed determination is given, in accordance with Section 73-4-11 hereof, the state engineer shall diligently search for the names and addresses of any claimants to water in the source covered by the proposed determination who have not been previously served with summons other than by publication, and any such persons located shall forthwith be served with summons[~~, and after~~].

(3) After the state engineer has exhausted [~~his~~] the search for other claimants [~~he shall~~], as described in Subsection (2), the state engineer shall:

(a) make such fact known to the district court by affidavit; and [~~the clerk of the district~~]

435 ~~court shall]~~

436 (b) ~~as ordered by the court,~~ again publish summons five times, once each week, for five
437 successive weeks which said service shall be binding upon all unknown claimants.

438 Section 15. Section **73-4-24** is amended to read:

439 **73-4-24. Petition for expedited hearing of objection -- Petition for limited**
440 **determination.**

441 (1) A claimant to the use of water may petition the court to expedite the hearing of a
442 valid, timely objection to a report and proposed determination prepared in accordance with
443 Section 73-4-11 in which the claimant has a direct interest.

444 (2) A petition under Subsection (1) shall identify any party directly affected by the
445 objection, if known to the claimant, and state why the hearing of the objection should be
446 expedited.

447 (3) A petitioner under Subsection (1) shall notify those affected by the petition as
448 directed by the court.

449 (4) The court may grant a petition under Subsection (1) if:

450 (a) the court finds that the expedited hearing is necessary in the interest of justice;

451 (b) granting the petition will facilitate a reasonably prompt resolution of the matters
452 raised in the objection; and

453 (c) granting the petition does not prejudice the right of another claimant.

454 (5) During the pendency of a general adjudication suit, a claimant or group of
455 claimants may petition the court to direct the state engineer to ~~[survey and]~~ prepare a proposed
456 determination and hydrographic survey map for a limited area within the general adjudication
457 area in which the claimant or group of claimants has a claim.

458 (6) The court may grant a petition under Subsection (5) if:

459 (a) the claimant or group of claimants will suffer prejudice if the petition is not
460 granted;

461 (b) the matters raised by the claimant or group of claimants are proper for
462 determination in a general adjudication;

463 (c) granting the petition will not unduly burden the state engineer's resources; and

464 (d) granting the petition will not unduly interfere with the state engineer's discretion to
465 allocate resources for the preparation of another proposed determination.

466 (7) If the court grants a petition under this section, the state engineer shall comply with
467 this chapter in satisfying the court's order.

468 Section 16. **Repealer.**

469 This bill repeals:

470 Section **73-4-6, In case of use for irrigation.**

471 Section **73-4-7, In case of use for power purposes.**

472 Section **73-4-8, In case of use for mining or milling.**